

### REMARKS

1           The Examiner objected to the Abstract of Disclosure because of the phrase "is disclosed" in line 1. The Examiner contends that this phrase should be omitted. Applicant has made the changes as set forth above and believes the same overcomes  
5 the Examiner's objection.

          The Examiner rejected claims 1 and 3-10 under 35 U.S.C. § 103(a) as being unpatentable over Podjan in view of Lush, U.S. Patent No. 6,073,582. Applicant respectfully disagrees with the Examiner's proposed combination. There is no suggestion in either of the references that they may be combined in the manner  
10 suggested by the Examiner. Furthermore, even if for argument purposes such a suggestion exists, such a combination would still fail to teach all of the limitations of the claims. Independent claim 1 has been amended to specifically recite that each of the feeder segments include a selective locking structure. The selective locking structure  
15 yieldably maintains the feeder body in its extended position. Independent claim 10 has been amended to recite that each of the feeder segments have a locking structure associated therewith which yieldably locks the feeder body in its extended position. Contrary to the Examiner's contention, neither Lush '582 nor Podjan teach this limitation. Lush '582 teaches a collapsible mesh structure that will freely collapse when  
20 not filled and the upper end of the feeder is not being supported by the hanger. Similarly, Podjan also teaches a freely collapsible structure. Reference numbers 26 and 27 of Podjan are flanges that support one ring upon another in a step-like fashion so that the rings do not slip past one another. Podjan does not teach or suggest that the

1 feeder segments have a selective locking structure which yieldably maintains the feeder  
body in an extended position. The locking structure of the present invention is  
advantageous over prior art bird feeders because the feeder can be maintained in an  
extended position while being filled. The locking structure also eliminates the problems  
5 associated with feed falling between the rings of the feeder.

Regarding claims 3-9 of the present invention, claims 3-9 recite the shape and  
composition of the feeder body. Applicant asserts that the limitations of claims 3-9 are  
not taught or otherwise suggested by the Examiner's proposed combination.  
Furthermore, claims 3-9 ultimately depend from independent claim 1. Independent  
10 claim 1 is clearly allowable for the reasons set forth above. Insofar as claims 3-9  
ultimately depend from independent claim 1, the same are thought to be allowable.  
Accordingly, applicant asserts that the Examiner's rejection is in error.

Claims 1-8, 10 and 11 were rejected under 35 U.S.C. § 103(a) as being  
15 unpatentable over Lush, U.S. Patent No. 6,427,629, in view of Podjan. There is no  
suggestion in either of the references that they may be combined in the manner  
suggested by the Examiner. Furthermore, even if for argument purposes such a  
suggestion exists, neither of the references teach the structure as specifically recited in  
the claims. As more fully set forth above, Podjan teaches a set of flanges that do not  
20 yieldably lock the feeder body. Lush '629 fails to teach a locking structure of any sort.  
Accordingly, applicant asserts that claims 1 and 10 are allowable over the Examiner's  
rejection.

1           Regarding claims 2-8 of the present invention, claims 2-8 further describe the  
shape and composition of the feeder body segments. The structure recited in claims 2-  
8 is not taught or otherwise rendered obvious by the Examiner's cited art. Furthermore,  
claims 2-8 depend from independent claim 1. Claim 1 is clearly allowable for the  
5 reasons set forth above and, therefore, applicant asserts that claims 2-8 are allowable  
for those same reasons.

10           With regard to claim 11 of the present invention, claim 11 recites that the locking  
structure includes cooperating locking members on the segments. As stated above,  
neither Lush '629 nor Podjan teach a locking structure. The prior art bird feeders do not  
have structure to stop them from collapsing during filling. Accordingly, applicant  
believes that the Examiner's proposed combination of Lush '629 and Podjan is in error.

15           The Examiner rejected claims 1, 6, 10 and 11 under 35 U.S.C. § 103(a) as being  
unpatentable over Runyon in view of Lush '582. There is no suggestion in either of the  
references that they may be combined in the manner suggested by the Examiner.  
Furthermore, even if for argument purposes such a suggestion exists, neither of the  
references teach the structure as specifically recited in the claims. Contrary to the  
Examiner's argument, Runyon simply does not teach a locking structure that yieldably  
20 maintains the feeder body in an extended position. Runyon teaches that two segments  
fit together in a puzzle-like fashion. Runyon actually teaches directly away from a lock  
structure which yieldably locks a feeder body. Runyon specifically teaches as follows:

25                       "Once this slight clearance is achieved, both  
members **25**, **26**, are no longer deformed, and relaxed to  
their initial shapes and dimensions. This relaxation allows  
for the engagement of beveled flange **38** to respective detent

1                   62 and forces the upper housing member 25 downward (in  
the direction opposite arrows "z"). The beveled flanges 38  
move into alignment with the slats 64, 65, and the movement  
of the members 25, 26 toward each other ceases at the  
edge surfaces 44, 76 on the upper and lower housing  
members 25, 26 abut, such that the apparatus 20 is now at  
rest and structurally stable."

5 (Col. 5, lines 18-28). (Emphasis added). Accordingly, Runyon teaches a puzzle-like fit  
as opposed to a yieldable lock. Therefore, applicant asserts that claims 1 and 10 are  
clearly allowable over the Examiner's proposed combination of Runyon and Lush '582.

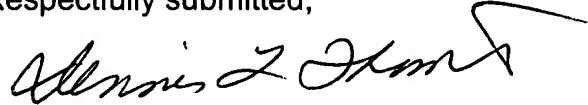
10                   With regard to claim 6 of the present invention, claim 6 recites that the feeder  
body is comprised of a plastic material. Applicant asserts that the Examiner's cited art  
does not teach or otherwise suggest the structure. Furthermore, claim 6 depends from  
independent claim 1. Claim 1 is allowable for the reasons set forth above and,  
therefore, applicant asserts that claim 6 is also allowable.

15                   Claim 11 recites that the locking structure includes cooperating locking members  
on the segments. As previously stated, neither Lush '582 nor Runyon teach locking  
members. Furthermore, claim 11 ultimately depends from independent claim 10. Claim  
10 is allowable for the reasons stated above and, therefore, applicant asserts that claim  
11 is also allowable.

20                   In light of the above amendments and remarks, applicant asserts that the claims  
are in condition for allowance. Applicant respectfully requests reconsideration and  
allowance of the same.

1 No fees or extensions of time are believed to be due in connection with this  
amendment; however, please consider this a request for any extension inadvertently  
omitted, and charge any additional fees to Deposit Account No. 502093.

Respectfully submitted,

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CERTIFICATE OF MAILING

15 I hereby certify that the original of this AMENDMENT for RAYMON W. LUSH,  
Serial No. 10/614,947, was mailed by first class mail, postage prepaid, to Mail Stop  
Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on  
this 14<sup>th</sup> day of June, 2004.



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